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MINERAL RIGHTS IN REVESTED OREGON LANDS

by

Irving Rand
State Senator

The mining industry of western Oregon is seriously affected by an interpretation placed by the Secretary of the Interior upon the acts of Congress relating to the re-vested Oregon and California Railroad lands and the reconveyed Coos Bay Wagon Road grant lands. These lands aggregate approximately two and a half million acres, in alternate sections generally, in the counties of Josephine, Jackson, Curry, Coos, Douglas, Lane, Linn, Benton, Marion, Polk, Clackamas, Yamhill, and some others. Within this vast area, from the Columbia River on the northerly boundary of Oregon to the California-Oregon boundary on the south, there are in all reasonable probability many as yet undiscovered mineral deposits of various kinds and of great value.

When the Oregon and California Railroad grant lands became "revested" in the United States, the Congress on June 9, 1916, passed an act providing for the classification of these lands as timber lands, power-site lands and agricultural lands, and for the disposal of the agricultural lands and of the timber on the timber lands. Section 3 of this act provides that this classification shall not operate to exclude from exploration, entry and disposition under the mineral land laws of the United States any of these lands (except power sites) which are chiefly valuable for their mineral deposits, and the general mineral land laws are extended to all such lands, except power sites. The timber on mining locations is reserved to the United States, subject to the right of the locator to use the timber necessary in mining his claim.

In 1919 the Congress passed another act accepting the lands in Coos and Douglas Counties granted to aid in the construction of a military road to Coos Bay Wagon Road Company, and providing that these lands shall be classified and disposed of in the manner provided by the act of June 9, 1916 for the classification and disposal of the O. & C. grant lands.

Consequently, until 1937 at least, these revested lands and reconveyed lands were open to mineral entry and location the same as other portions of the public domain.

On August 28, 1937, the Congress passed another act relating to these lands, providing that such portions of them as are classified as timber lands shall be managed for permanent forest production, and the timber shall be sold, cut, and removed in conformity with the principle of sustained yield for the purpose of providing a permanent source of timber supply.

The Secretary of the Interior has ruled that this act of August 28, 1937, has impliedly repealed section 3 of the original act of June 9, 1916, thereby precluding any mineral locations on any of the revested or reconveyed lands, except possibly lands classified as agricultural. As a result of this ruling the General Land Office through the District Land Office has notified mineral claimants whose claims were located subsequent to August 28, 1937, that their claims are "null and void."

If this ruling is adhered to and becomes "the law of the land" the great area involved will forever be closed to mineral exploration and development, and its mineral wealth will remain unfound and unused.

Senator Cordon has recently introduced legislation in the Congress to remedy this situation and to return these lands to their rightful status as potential producers of mineral wealth. Senator Cordon and the Oregon congressional delegation should receive the active and vigorous support of all citizens of Oregon in this legislation. The timber resources of the region will not be adversely affected, since as stated, the act of June 9, 1916 reserves the timber on the mining claims to the United States.

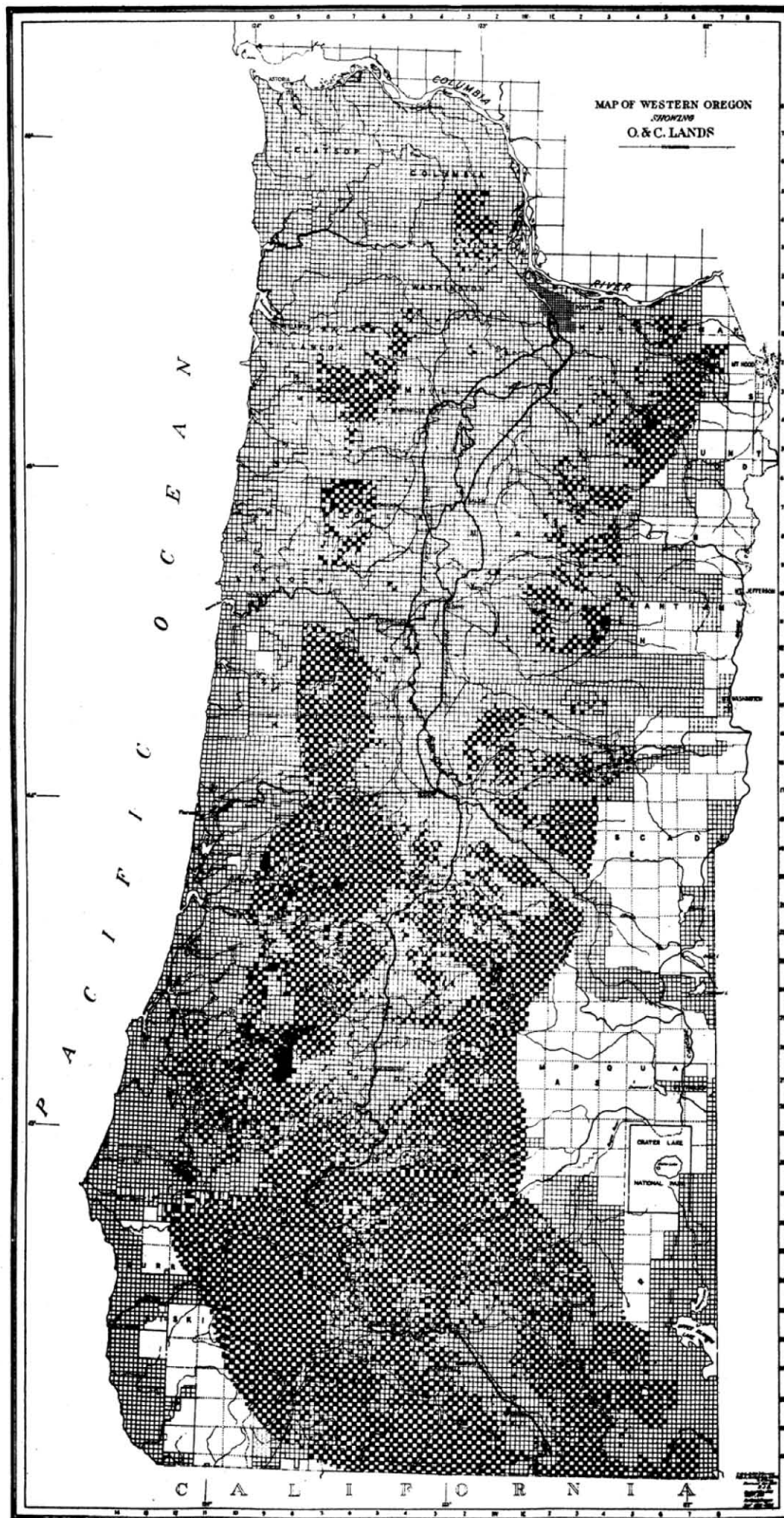
MERCURY IN MAY 1944

Mercury production continued to decline in May and consumption followed a like pattern, according to the Bureau of Mines, United States Department of the Interior. The production of 3,400 flasks marked a drop of 23 percent from the January rate, whereas consumption of 3,100 flasks more nearly approximated the rates for the earlier months of the year. The quoted price dropped 10 percent in May continuing the movement in progress since September 1943. Operations of Requa at the Polar Star mine, San Luis Obispo County, California, were discontinued and the Pershing mine, Pershing County, Nevada, was closed in May.

Salient statistics on mercury in the United States in 1939-43 and in Jan.-May 1944, in flasks of 76 pounds each

Period	Production	Consumption	Stocks at end of period		Price per flask at New York
			Consumers and dealers <u>1/</u>	Producers <u>2/</u>	
	Average Monthly				
1939.	1,553	<u>2/</u> 1,742	12,600	376	\$ 103.94
1940.	3,148	2,233	14,100	607	176.87
1941.	3,743	3,733	12,400	439	185.02
1942.	4,237	4,142	10,700	1,377	196.35
1943.	<u>4/</u> 4,327	4,542	13,200	3,457	195.21
	Monthly				
1944:					
January . . .	4,400	3,400	11,300	5,459	151.60
February. . .	3,800	3,700	9,400	5,450	130.00
March	3,800	3,600	9,900	5,011	130.00
April	3,700	3,200	9,700	5,604	128.20
May	3,400	3,100	8,900	6,171	115.54

1/ Largely excludes redistilled metal. 2/ Held by reporting companies. 3/ Apparent consumption. 4/ Based on final figures.



MINERAL LEASING BILL

Introduction:

H.R. 2279 was a bill designed to restore to the public domain, and to location and entry under the United States mining laws, such revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands as would be classified by the Secretary of the Interior as mineral lands. When asked for a report on this bill, the Secretary recommended that it be not enacted and submitted a proposed bill as a substitute for H.R. 2279 to provide for leasing the minerals in these lands.

Although this leasing bill, as recommended by the Secretary, applies specifically to O. and C. and Coos Bay Wagon Road grant lands only, it would undoubtedly serve as a model for mineral leasing on all the public domain if Congress could be persuaded to pass the necessary legislation. It is, therefore, of the utmost importance that the mining industry of the public land states examine the provisions of this proposed leasing bill and compare it with methods of acquiring mineral lands under existing United States mining laws.

The Bill:

Section 1 contains a statement authorizing the Secretary of the Interior to lease, for mining purposes, any of the described lands containing valuable deposits of minerals (except those not now subject to location under the mining laws); also to issue "temporary use permits for the mining and removal of common stone, rock, sand, gravel, clay, and other materials where they do not occur in quantity and of quality sufficient to justify their classification as valuable minerals....."

Section 2 provides for competitive bidding on leases in units not to exceed 640 acres "in reasonably compact form" on lands known to contain valuable mineral deposits not subject to "preferential lease" which is defined further along in the bill. Leases would be offered "to the highest responsible qualified bidder after notice and advertisement, upon such terms and subject to such conditions as the Secretary of the Interior may by general regulations prescribe. Any such lease offer shall reserve to the Secretary of the Interior the right to reject any or all bids whenever, in his judgment, the interests of the United States so require."

Section 3 contains a rather curious provision, namely "The Secretary of the Interior may issue separate leases for the concurrent development of deposits of different minerals underlying the same lands." (Underlining by Ed.)

Complications inherent in such an ingenious (or ingenuous) provision should be plain even to anyone inexperienced in mining. To put it mildly, this provision destroys confidence of the reader in the ability of the author of the bill to understand the problems involved.

Further in Section 3 it is specified that leases are to be set up for a period of ten years with the right of renewal "upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior"....."The amount of work to be done or investment required during each year of the lease shall be prescribed in the lease. The lease shall be conditioned upon the payment of an annual rental, payable in advance, of not less than 25 cents per acre for each year during the life of the lease, and a royalty to the Government. The rental paid for any one year shall be credited against the royalties as they accrue for that year. The royalty due shall be computed (1) at not less than 5 per centum of the value at the point of shipment to market of the mineral substances developed for disposal or (2) at not less than 5 per centum of the net returns from the processing plant or smelter or mint if the mineral substances are shipped as ore for processing, or as concentrates for smelting, or as bullion for minting. Such royalties shall be due and payable quarterly. The Secretary of the Interior may elect to take payments of royalties in mineral substances developed for disposal from the leased deposits."

The last sentence looks innocuous, but ask any miner who has ever done any leasing if he would sign a lease containing this clause. Moreover the meaning of "developed for disposal" in this sentence is ambiguous.

Section 4 provides that "temporary use permits" mentioned in Section 1 "shall be for a period of not exceeding one year and for not exceeding 640 acres in a reasonably compact form;....." Rental per acre and royalty are essentially the same as for the regular lease. These permits "shall be subject to revocation by the Secretary of the Interior after 30 days' notice upon failure of the permittees to comply with the terms of the permit or of any regulation."

No mention is made in this section of credit for rental against royalty as is provided for the regular lease in Section 3.

In section 5 the Government makes sure that no person, association, or corporation shall hold at any one time leases in the aggregate of more than 640 acres for any one of the minerals subject to appropriation under a lease.

Section 6 provides for forfeiture and cancellations whenever the lessee does not comply with any of the provisions of this act or of the lease.

Section 7 is quoted in full as follows: "Where prospecting is necessary to determine the nature and extent of a mineral deposit, the Secretary of the Interior may grant to any applicant qualified to acquire a lease under this Act a permit which shall give him the exclusive right for a period of not exceeding two years to prospect a reasonably compact area not exceeding 640 acres upon such conditions as may be provided. Any permittee who has expended not less than \$250 in prospecting on the land during the life of the permit, but has not made a discovery, shall, in the discretion of the Secretary, be entitled to a preferential right to a new permit for the land upon application filed prior to the expiration of the permit. If a permittee shall show to the satisfaction of the Secretary of the Interior that he has made within the period of the permit, a discovery of valuable mineral in the land described in the permit, he shall be entitled to a preferential right to a lease for all or a part of the area, to be selected in a reasonably compact form by the permittee, upon the terms provided in section 3 of this Act. After discovery is made on a permit and until a lease is applied for, the permittee shall pay to the United States not less than 10 per centum of the value of all minerals produced from the permit lands. A permit shall be assigned only with the approval of the Secretary of the Interior and shall be subject to revocation by the Secretary of the Interior after 30 days' notice upon failure of the permittee or his successor to comply with the terms of the permit or of any regulations."

The opening sentence of this section raises the question as to the nature of a mineral deposit where prospecting would not be necessary to determine its nature and extent. This point is of no special importance but again one wonders concerning the qualifications of the author of the proposed substitute bill.

Another point may be raised concerning the specification that "the permittee shall pay to the United States not less than 10 per centum of the value of all minerals produced etc." How is the "value" defined? Also 10 per centum is the stated minimum. What is the maximum and how is the amount determined?

It should be noted that should a prospector make a discovery and wish to transfer his rights to a buyer, he may do so only with the approval of the Secretary of the Interior.

Section 8 allows prospecting for gold, silver, and chromium in the reconveyed lands without a permit; "Provided, however, That if a prospector finds gold, silver or chromium, he shall stake an area not exceeding 20 acres conforming as nearly as practicable to the subdivisions of the public land surveys and shall post a notice thereon of his intention to explore the ground in an effort to develop a paying mine. He shall cause to be erected upon the land at some conspicuous place a monument not less than 4 feet high and shall post the notice on or near the monument. The notice shall contain the name of the mineral sought;

the name and address of the locator; the date of posting; a description of the land by legal subdivisions; and a statement that the locator will prospect the land and claim a preference right to a lease in the event that he makes a valid discovery. Within 30 days after posting the notice he shall file a copy in the United States land office for the district in which the land lies. Such staking, posting, and filing shall give the prospector the exclusive right to develop or mine the mineral within the area staked, and to use the surface only for mining operations, for a period of not longer than one year from the date on which the notice was posted on the ground. The prospector shall have a preferential right to lease the land, if prior to the expiration of the one year period he files an application for a lease under the provisions of this Act."

Hypothetical question: What is the status of the prospector if he works on a mineral showing for a year without finding pay ore and fails to make application for a lease within the prescribed time; and at the expiration of the year a second prospector posts the required notice on the ground, starts work, and finds pay ore because of the work of the first prospector? Well, it appears as if that would just be the first man's hard luck. But the writer of the bill ought to give him a better "break" even if said writer never got hard, calloused hands from handling a pick and shovel, or drill steel and single jack. In the present mining law there is no strict time limitation. So long as the prospector does a certain amount of work he maintains his possessory right in his claim.

Another question also will be raised by the experienced prospector. A not uncommon condition might occur in which the prospector makes a discovery and stakes his 20 acres. He then, over a period of time, traces a vein of low grade material to his boundary where, just beyond, a bonanza develops - but a second prospector, recognizing the possibilities from the other's early work, has already staked the ground containing the bonanza. The first man has proved up the other man's ground, but has no recourse. Under the U.S. mining laws he could have protected himself by locating two or more claims; under this leasing law he is restricted to "an area not exceeding 20 acres conforming as nearly as practicable to the subdivisions of the public land surveys." Incidentally this size specification is "blood relative" of the Federal placer mining law, and the author of the bill saw no need of making distinction between eccentricities of lode and placer deposits.

Section 9 provides for maintaining the possessory right of a bona fide claimant of a mining claim located prior to August 28, 1937.

Section 10 reserves "to the Secretary of the Interior the right to grant such easements or rights-of-way including easements in tunnels, upon or through the lands for joint or several use as may be necessary and appropriate to the working of the lands or of other lands containing deposits subject to disposal under this or any other mineral leasing Act,....."

Section 11 requires "the exercise of reasonable diligence, skill and care in the operation of the leased property; the use of the surface of the lands covered by the lease only for purposes incident to mining; and the observance of such rules for the safety and welfare of miners and for the prevention of undue waste as may be prescribed by the Secretary of the Interior."

Other specifications in this section are concerned with conforming to the 8-hour day, prohibiting the employment of minors and women underground, and the twice-a-month pay day. "Each lease shall also contain such provisions as the Secretary of the Interior may deem necessary to insure the sale of the production of such lands to the United States and to the public at reasonable prices, for the protection of the interests of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare." The final provision in this section generously states, "Nothing in this Act shall be construed to affect the right of the State or other local authorities to exercise any rights which they may have with respect to properties leased hereunder, including the right to levy and collect taxes upon improvements, output of mines or other rights, property, or assets of any lessee of the United States."

Section 12 provides that "No lease issued under this Act shall be assigned or sublet, except with the consent of the Secretary." Other parts of this section are in explanation of method prescribed for relinquishing a lease.

Sections 13 and 14 emphasize the complete control of the surface of the ground leased, exercised by the Government. Upon 30 days' notice by the Secretary of the Interior, leases, permits, or rights acquired under this Act affecting lands valuable for power sites may be cancelled and the licensee or permittee shall not be entitled to the payment of any damages or compensation whatsoever or to reimbursement for any financial or property loss caused by such use and development. Likewise, leases, permits or rights acquired under this Act allow no authority to cut, use, or remove timber for any purpose. Timber for mining operations may be cut or removed only as authorized by regulations prescribed by the Secretary of the Interior.

The remaining sections of the proposed bill have to do with disposition of moneys received by the Government from leases and are of no particular interest except as applied to the revested lands involved.

Conclusion:

The United States mining laws having to do with location and maintaining possessory right in mining claims are admittedly open to criticism. In normal times, there have been many instances of persons holding ground by doing only a token of the required amount of work. In addition, work of such a character may be done which entirely satisfies the law but which bears no relation to development of the ground for mining purposes. Anyone who has had any experience in such work knows that annual work on many undeveloped mining claims, even if the law is observed religiously, is usually done wherever the work is easiest or simplest without much regard to developing valuable minerals. One hundred dollars' worth of work on a claim is too insignificant to have much effect in developing a mine, particularly if that amount is used year after year at a place where the object is to get the work done as easily and quickly as possible. If multiples of \$100 could be spent on a group or groups of claims under proper supervision, some good in the way of mineral development might be accomplished. Under conditions obtaining over the past decade, the matter is more or less academic, since mining claims have been exempted so much of the time from annual assessment work. In the future, when the exemption is removed, possibly some modification of the mining laws designed to correct the above-mentioned weaknesses may be feasible. Certainly the answer is not in mineral leasing by the Government.

All national legislation nowadays seems to be aimed at placing more and more power in the hands of the Federal Government. This bill is a good example. It is rather weak technically, but it is decidedly strong in insuring the Secretary's control over the leased land. Apparently no need is felt for encouraging prospecting; only the need for rigid control by the Government of all prospecting activities. No better way can be found to stifle discovery of new ore deposits than such Governmental control.

F.W.L.

ACTIVATED CARBON FROM TEXAS LIGNITE*

Activated carbon has been manufactured from Texas lignite since 1922 at the Darco Corporation plant in Marshall, Texas. Lignite is the principal raw material for making the carbon, although sawdust and charcoal are also used. The plant is well situated with respect to convenient and adequate sources of both the necessary raw materials and natural gas, which is used for fuel.

Most of the lignite in the Coastal Plain region of Texas is of suitable quality for making activated carbon, with the exception that in some deposits sulphur is present in objectionably high quantities. The lignite used in the Darco plant has an average moisture

* Extract from Mineral Resource Circular No. 30 by Glen L. Evans, Bureau of Economic Geology, The University of Texas, Austin.

content of about 31.5 percent. The dried material contains about 11 percent ash, 43.5 percent volatile and combustible matter, and 45.5 percent fixed carbon. The volatile and ash constituents are waste products of the operation. Attention is being given to possibilities of converting the waste into valuable by-products.

The primary steps in the process of making activated carbon consist of (1) burning the lignite in furnaces; (2) acid-water washing the burned product to remove residue; (3) grinding and air classifying; (4) packaging for shipment. In the course of plant treatment the carbon acquires the highly adsorptive properties which makes the finished product an effective filtering agent. The word "activated" is in reference to this adsorptive property. Most of the carbon is marketed in finely powdered form, but some lump material is sold for use in water filtration plants. The powdered grades range from 70 to more than 90 percent minus 300-mesh particles. Surface adsorption area, and consequently the effectiveness, is increased with increasing fineness of the grind.

Domestic and foreign markets have been established for the finished carbon products, and the demand has increased appreciably during the past decade. The carbon is sold under the trade names "Darco" and "Hydroadarco." Hydroadarco is used in water filtering and purification plants to remove suspended matter responsible for undesirable colors, tastes, and odors. Darco is used as an adsorptive medium for decolorizing and purifying various liquids and solutions, including sugars, syrups, edible oils, solvents, chemicals, and pharmaceuticals. An interesting and important application of activated carbon has recently been developed in the manufacture of penicillin. The adsorptive properties of the carbon are utilized to remove the active penicillin ingredients from extremely dilute solutions. The carbon is similarly used in vitamin research. Activated carbon, being an adsorptive agent, does not compete in the markets with carbon black from natural gas which is used almost entirely in rubber goods and pigments.

MINING NEWS FROM GRANT COUNTY, OREGON

In the Murderer's Creek area Bob King and partners have opened up a good showing of high grade chrome ore, and results of analyses on some samples show metallurgical grade. Shipments to the Metals Reserve depot at Seneca will begin soon.

* * * * *

Hugh Campbell and partners have also opened up a promising lens of high grade chrome near the King holdings, and will soon begin shipments to the Government depot.

* * * * *

Ward Mallennex and Irving Hazeltine have commenced operations on the Celebration claim, and shipments will soon be going forward to the Seneca depot. This property has already produced about a thousand tons of ore which averaged 38 percent Cr_2O_3 . It is also understood from these men that the Haggard-New property which produced several hundred tons of high grade ore will be reopened, and a considerable tonnage is expected to be shipped this summer.

* * * * *

No gold properties are operating at this time but considerable interest has recently been shown in possible placer operations. Bert Kumle, who was formerly with the Ferris Gold Dredging Company, and who now owns and operates a dredge in California, was in the district lately testing ground for gold values in order to plan for postwar operations.

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